

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Daniel V. Hernandez

v

West Law Group and James A. West

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Civil Action No.

5:19-cv-774

Complaint

Introduction

1. The Fair Debt Collection Practices Act was enacted to stop debt collectors from harassing, abusing, and making misrepresentations to and about consumers. Congress found that these practices led to the loss of jobs, the number of personal bankruptcies, invasions of privacy, and marital disharmony.
2. The FDCPA restricts the venue of a debt collection suit to the location where the agreement granting credit was entered or where the consumer resides. Courts have held that the proper venue is “the smallest geographic area relevant to venue in the court system in which the case is filed.” 5:15-cv-587-RP *citing Cf. Suesz v. Med-1 Solutions, LLC*, 757 F. 3d 636, 641 (7th Cr. 2014).
3. Plaintiff brings this claim for Defendant’s violation of the FDCPA and seeks actual damages, statutory damages, attorney’s fees, and costs.

Jurisdiction & Venue

4. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1331.
5. Venue is proper in this district and division pursuant to 28 U.S.C. § 1391(b) as a substantial part of the events or omissions giving rise to Plaintiff's claims occurred here.

Parties

6. Plaintiff, Daniel V. Hernandez, is a natural person who resides in and has resided in San Antonio, Bexar County, Texas at all times relevant to this action.
7. Defendant, West Law Group, PLLC is a Texas professional limited liability corporation whose primary business address is 957 NASA Parkway, Suite 503, Houston, Texas 77058. It may be served via its registered agent Jim West at 2437 Bay Area Boulevard, Suite 283, Houston, Texas 77058.
8. Defendant, James A. West, is an attorney licensed in Texas having been admitted September 12, 1985 and holding bar card number 21199050.
9. The principal business address of James West is 957 NASA Parkway #503, Houston, Texas 77058.
10. West Law Group is a Texas law firm that regularly engages in the collection of debts allegedly owed to another.
11. James West is West Law Group's primary attorney.

Facts

12. Each defendant regularly engages in the collection of defaulted debts.
13. The principal purpose of West Law Group is the collection of such debts.
14. James West is an attorney at law of the State of Texas representing one or more third-party creditors throughout the State of Texas.
15. The Debt is a defaulted debt that Hernandez used for personal, family, and household purposes (the “Debt”).
16. West Law Group filed Cause No. 31DC1901674 against Hernandez in Bexar County Justice Court, Precinct 3.
17. The suit correctly states Hernandez’s address.
18. In the suit’s venue allegation, James West states “Defendant’s place of residence is in Bexar County, therefore, Bexar County is the proper county for venue of this suit.”
19. While Hernandez does in fact live in Bexar County, and venue in Bexar County is proper, he does not reside within the geographical area covered by Justice of the Peace Precinct 3.
20. Venue is not proper in Bexar County Precinct 3.
21. A search of Bexar County’s precinct map shows that Hernandez resides in Bexar County Precinct 4.

22. Defendants sued Plaintiff to collect a debt in the wrong venue in violation of the FDCPA.

Cause of Action – Fair Debt Collection Practices Act

23. Defendants are debt collectors as defined by 15 U.S.C. § 1692a(6).

24. The Debt is a debt as defined by 15 U.S.C. § 1692a(5).

25. Hernandez is a consumer as defined by 15 U.S.C. § 1692a(3).

26. The lawsuit is a communication as defined by 15 U.S.C. § 1692a(2).

27. Defendants violated the FDCPA in that they:

25.1. They used a false representation to collect or attempt to collect a debt in violation of 15 U.S.C. § 1692e(10); and

25.2 Filed suit to collect a debt outside the proper venue in violation of 15 U.S.C. § 1692i(a)(2).

28. Defendants' conduct invaded Plaintiff's rights which are protected by the FDCPA, the invasion of which caused an injury-in-fact.

29. Based on a single violation of the FDCPA, Defendants are each liable to Plaintiff for such relief allowed under 15 U.S.C. § 1692k.

Jury Demand

30. Plaintiff demands this case be tried before a jury.

Prayer for Relief

Plaintiff prays, that this Court enter judgment against Defendant and in favor of Plaintiff for:

- a. Actual damages per 15 U.S.C. § 1692 k(a)(1);
- b. Statutory damages per 15 U.S.C. § 1692k(a)(2); and
- c. Attorney's fees, costs, and litigation expenses per 15 U.S.C. § 1692k(a)(3).

Dated: 7/2/2019

Respectfully Submitted,

/s/William M. Clanton
William M. Clanton
Texas Bar No. 24049436

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